

REMARKS

Claims 1, 6, 11, 16, 21, 52, 55, 57, and 62-67 were previously pending in this application. By this amendment, Applicant is amending claims 1, 6, 11, 16, 21, 55 and 57. Claims 1 and 21 have been amended to overcome the prior art and to clarify claim language. Claims 6, 11, 16, 55, and 57 have been amended to clarify claim language. New claims 68-76 have been added.

As a result, claims 1, 6, 11, 16, 21, 52, 55, 57, and 62-76 are pending for examination with claims 1, 11, 21, and 68-70 being independent claims. Support for the claim amendments may be found in the application as filed and particularly in the specification on page 3, lines 22-33, page 8, lines 32-34 and on page 18 lines 4-15. Support for the new claims may be found throughout the specification, for example on page 3, line 10 - page 5, line 31, on page 7, lines 2-page 9, line 14, on page 18, line 17 - page 19, line 10 and in the Examples. No new matter has been added.

Claim Rejections Under 35 U.S.C. §102

The Examiner rejected claims 1 and 6 under 35 U.S.C. 102(b) as being anticipated by Koenig et al. The Examiner asserts that Koenig et al. teaches measuring CRP in blood at levels about 0.6 mg/dl to predict future risk of coronary heart disease, a known diabetic complication. Claim 1 has been amended to overcome this rejection. As currently amended, claim 1 recites diabetic complications that do not encompass the future risk of a coronary heart disease. Claim 6 depends from claim 1. Therefore, the amendment to claim 1 should obviate the rejection to claim 6.

The Examiner rejected claims 1, 6, 21, 55, 62, 63, and 66 under 35 U.S.C. 102(a) and (e) as being anticipated by US Patent 6,040,147. The Examiner asserts that “[t]he ‘147 patent teaches predicting future risk of atherosclerosis, a known diabetes complication, by detecting CRP values in blood at levels about 0.6 mg/dl (see figure 2 in particular), in addition the ‘147 patent teaches evaluating the likelihood that an individual will respond from treatment with an

anti-inflammatory agent, lipid lowering agent, or COX-2 inhibitor (i.e. aspirin) by measuring CRP in blood and obtaining values of 0.6 mg/dl or above.”

Independent claims 1 and 21 have been amended to overcome this rejection. Amended claims 1 and 21 recite diabetic complications that do not encompass the future risk of atherosclerosis. Claim 6 depends from claim 1. Claims 55, 62, 63 and 66 depend from claim 21. Therefore, the amendments to claims 1 and 21 should obviate the rejections to claims 6 and to claims 55, 62, 63 and 66 respectively.

New claims 68-70 are not taught by the cited prior art. New claims 71 and 72 depend from claim 1. New claims 73 and 74 depend from claim 11. New claims 75 and 76 depend from claim 21.

In view of the above amendments and arguments, the instant claims are not anticipated by Koenig et al. or US Patent 6,040,147. Accordingly, withdrawal of the rejection of the claims under 35 U.S.C. §102 is respectfully requested.

Claim Objections

The Examiner objected to claims 1, 6, 11, 16, 21, 52, 55, and 62-67 for reciting the phrase “wherein the level of C-reactive protein is about 0.60 [or 0.30] mg/dl of blood”. According to the Examiner the objected to phrase is confusing. The Examiner suggested amending the phrase to read “wherein the level of C-reactive protein is about 0.60 [or 0.30] mg/dl in a blood sample from the individual”. The claims have been amended in accordance with Examiner’s suggestion.

In view of the foregoing amendments and remarks, Applicant respectfully requests reconsideration of the claims and withdrawal of the rejections.

CONCLUSION

A Notice of Allowance is respectfully requested. The Examiner is requested to call the undersigned at the telephone number listed below if this communication does not place the case in condition for allowance.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time.

If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 23/2825.

Respectfully submitted,
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Docket No.: B0801.70238US00
Date: January 26, 2006
x1/26/2006x